

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 93-472-C - ORDER NO. 95-550✓
FEBRUARY 28, 1995

IN RE: Application of STS Networking Systems,)
Inc. d/b/a Scott Communications for a) ORDER
Certificate of Public Convenience and) GRANTING
Necessity to Provide Store and Forward) CERTIFICATE
Telecommunications Services on a Local,)
IntraLATA, and InterLATA Basis Within)
South Carolina.)

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of an Amended Application filed July 15, 1994, by STS Networking Systems, Inc. d/b/a Scott Communications ("Scott" or "the Company") for a Certificate of Public Convenience and Necessity to provide store and forward telecommunications service on a local, intraLATA, and interLATA basis in the State of South Carolina.

INTRODUCTION

On July 28, 1993, Scott filed its original application seeking a Certificate of Public Convenience and Necessity to provide store and forward service in South Carolina. That Application requested authority to provide store and forward service in South Carolina on an intraLATA and interLATA basis. The Commission's Executive Director directed Scott to publish a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Company's Application. Scott published the Notice of Filing in The State newspaper. Petitions to Intervene were received by Southern

Bell Telephone and Telegraph Company ("Southern Bell"), the Consumer Advocate for the State of South Carolina ("the Consumer Advocate"), and Peoples Telephone Company, Inc. ("Peoples").

On March 16, 1994, a public hearing concerning the matters contained in Scott's Application was held in the Commission Hearing Room. Thereafter, by Commission Order No. 94-368, dated May 4, 1994, the Commission granted a portion of the requested authority. A joint Petition for Reconsideration and/or Rehearing of Order No. 94-368 was filed by Scott and Peoples. The Commission then issued Order No. 94-540, dated June 9, 1994, which granted reconsideration in part and denied reconsideration in part.

Subsequently, Southern Bell filed a Petition for Rehearing or Reconsideration of Order No. 94-540, and the South Carolina Telephone Coalition ("SCTC") filed a Petition for Leave to Intervene Out of Time and for Rehearing or Reconsideration of Order No. 94-368 and Order No. 94-540. By Order No. 94-645, dated July 8, 1994, the Commission granted the Petition to Intervene Out of Time by SCTC, ordered a new hearing in the matter, and stayed Order No. 94-368 and Order No. 94-540.

On July 15, 1994, Scott filed an Amended Application requesting authority to provide store and forward service on a local, intraLATA, and interLATA basis. The Executive Director instructed Scott to publish a prepared Notice of Filing. Scott submitted affidavits of publication from several newspapers throughout South Carolina. The Intervenor already admitted to the Docket remained as Intervenor to the Amended Application.

On December 8, 1994, and January 11, 1995, the Commission

convened a public hearing in the Commission's Hearing Room. The Honorable Rudolph Mitchell, Chairman, and the Honorable Guy Butler, Vice Chairman, presided. John F. Beach, Esquire, and Robert D. Coble, Esquire, represented Scott and the Intervenor Peoples. Harry M. Lightsey, III, Esquire, Mary Jo Peed, Esquire, and William F. Austin, Esquire, represented Southern Bell. Elliott F. Elam, Jr., Esquire, represented the Consumer Advocate. M. John Bowen, Jr., Esquire, and Margaret M. Fox, Esquire, represented the SCTC. Florence P. Belser, Staff Counsel, represented the Commission Staff.

In support of its Application, Scott presented the testimony of Joe Hutchinson. Peoples, which intervened in this Docket in support of Scott's Application, sponsored the testimony of B. Reid Presson, Jr. and Gene R. Stewart. Southern Bell presented the testimony of Patricia S. Cowart. The SCTC presented the testimony of John S. Holladay.

After thorough consideration of the Company's Amended Application, the evidence presented at the hearing, and the applicable law, the Commission issues the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. Scott is a privately held corporation organized and existing under the laws of the State of North Carolina and is authorized to transact business in South Carolina by the Secretary of State. STS is certificated by the Commission to provide COCOT services in South Carolina by Order Nos. 89-1081 and 91-1086, issued in Docket No. 85-150-C.

2. Store and forward service is currently authorized in South Carolina for "0+" collect store and forward calls on a local, intraLATA, and interLATA basis from confinement facilities. Scott seeks to broaden the scope of store and forward service in South Carolina to allow for the provision of store and forward service to be offered from privately owned payphones located outside confinement facilities and to include "0+" credit card calls.

3. Scott has demonstrated that the provision of store and forward service from privately provided pay telephones on an intraLATA and interLATA basis is in the public interest. The Commission finds that the public will be better served by allowing "0+" collect and credit card store and forward service from privately provided pay telephones on an intraLATA and interLATA basis in South Carolina. The Commission declines to allow the provision of store and forward service on a local basis, except as previously approved from confinement facilities.

4. Scott is fit, willing, and able and has the experience and capability to provide store and forward services as authorized herein.

EVIDENCE AND CONCLUSIONS

1. Scott's Amended Application contains the information upon which Finding of Fact No. 1 is based. Joe Hutchinson, President of Scott also testified about Scott's incorporation and its previous authorization received from this Commission. This information is jurisdictional and is uncontested.

2. Scott's Amended Application and the testimony of witness

Hutchinson contains the information upon which Finding of Fact No. 2 is based. Further, the Commission takes judicial notice of its previous orders which approved the provision of store and forward service from confinement facilities in South Carolina.

3. Mr. Hutchinson testified that approval of Scott's Application would benefit the public in several ways. Mr. Hutchinson stated that approval of store and forward service would lead to 1) lower rates in many areas for South Carolina consumers, 2) increased availability of payphones, as additional revenue opportunities would encourage payphone providers to place phones in otherwise marginal locations thereby increasing access to telecommunications services and increasing access to emergency telephone services, and 3) make available automated operator services to the public in areas where the LEC may not offer automated operator services. Mr. Hutchinson also testified that Scott's phones would provide access to the LEC operator in the identical way that LEC payphones currently provide this access, i.e. by simply dialing "0".

Gene R. Stewart, President of the South Carolina Public Communications Association (SCPCA), testified on behalf of Peoples and in support of Scott's Amended Application. Mr. Stewart testified that a significant number of SCPCA members are interested in providing store and forward service in South Carolina. Mr. Stewart testified that there must be parity between LEC and privately-owned payphones in order for the public benefits of competition to be fully realized. Mr. Stewart offered that authorizing store and forward service will help alleviate some of

the existing inequities between LECs and private payphone owners. For instance, Mr. Stewart explained that currently when a caller dials "0" plus an intraLATA or local number, the call is routed to the LEC. As a result the LEC carries the call and earns revenue from the call, but the LEC does not reimburse the COCOT owner for the use of the COCOT's investment which furnished the LEC with this stream of revenue. Mr. Stewart submits that authorization of store and forward service on a local and intraLATA basis would give the private payphone owners the ability to earn a small stream of revenue on these classes of calls.

According to witness Stewart, the Commission should waive the Commission COCOT guidelines which require all local and intraLATA non-sent paid calls and "0-" calls to be sent to the LEC for completion and which also requires COCOT providers using Automated Operator Service to direct all local and intraLATA calls to the LEC operators. Mr. Stewart suggests that such a waiver is appropriate and would foster competition just as the expansion of intraLATA competition in South Carolina in 1993 saw many IXCs begin providing intraLATA collect and credit card services in South Carolina. Mr. Stewart stated that aggressive advertising campaigns are underway to persuade the users of independently owned payphones to utilize the IXC services for intraLATA and interLATA collect and calling card services rather than the pre-selected LEC and non-LEC operator services offered through the payphone.

Southern Bell presented the testimony of Patricia S. Cowart in opposition to Scott's Amended Application. According to Ms. Cowart, store and forward service will only duplicate existing "0+"

local and intraLATA toll operator services. Ms. Cowart testified that an end user will not be able to use the LEC to complete a "0+" local or intraLATA call. Ms. Cowart also testified that the LECs would lose the operator services and toll revenues which provide contributions in support of basic local service and which help recover the costs of non-revenue producing operator assistance type calls.

John S. Holladay testified on behalf the SCTC. Mr. Holladay is the Director of External Affairs for Rock Hill Telephone Company. According to the testimony of Mr. Holladay, SCTC believes that the use of store and forward technology to provide local and intraLATA credit card and collect calling will deny customers the opportunity to use the full range of services which are available through the LEC operators. Mr. Holladay also testified that a customer desiring to use the LEC operator to make a "0+" call could not access the LEC operator to do so.

The Commission is charged with the responsibility of balancing competing interests and positions and making an informed decision. Based upon the evidence of record, the Commission concludes that store and forward service should be allowed for "0+" collect and credit card calls on an intraLATA and interLATA basis. The technology is available and in place for the proposed service, and the Commission believes that the public will benefit from store and forward service, especially if the number of payphones increases in areas which are presently without private payphone service. Furthermore, the Commission believes that the increased competition will benefit customers by allowing access to services

at lower rates.

However, the Commission declines to authorize store and forward service for the completion of local calling traffic. The Commission does not believe that it is in the public interest to allow store and forward service in the completion of local traffic. The Commission has previously authorized the completion of local traffic through store and forward service from confinement facilities. However, the store and forward services from the confinement facilities are provided to a very limited market and were found to be in the public interest as a way to prevent telephone fraud as well as enabling the confinement facility to control the scope of calling of the inmates. In the instant proceeding, the Commission finds no reason to extend its approval of store and forward service to local traffic. Therefore, the Commission does not authorize store and forward service for local calling, except as previously authorized from confinement facilities.

4. Scott has provided COCOT services in South Carolina since November 1989. (Amended Application and Testimony of Hutchinson.) Mr. Hutchinson testified that in order for a provider to offer store and forward service, the provider must invest in a sophisticated "smart" phone which contains a computerized mechanism. According to Mr. Hutchinson, Scott has invested in and uses the Intellicall "smart" phones, and Scott currently provides payphone service to 54 locations in South Carolina and 76 locations in North Carolina. Mr. Hutchinson also testified that Scott is currently providing store and forward service in North Carolina.

According to Mr. Hutchinson, he has been involved in the telecommunications industry since 1966 when he began working for Southern Bell and that he began providing payphone services in 1989. Mr. Hutchinson stated that his wife is in charge of programming, maintenance and office management and has so worked for four years. Scott also relies upon the technical assistance of two other individuals, each with several years experience in telecommunications.

To be granted a Certificate of Public Convenience and Necessity, an Applicant must demonstrate that its service is in the public interest and that they are fit, willing, and able to provide the service. Scott has corroborated its fitness to provide the service by showing that it has and is currently providing reliable telecommunications services in South Carolina. Also, Scott has shown that it possesses the necessary equipment and is technically competent to provide the proposed service. Scott's willingness has been demonstrated by the filing of its Amended Application and by its participation in these proceeding. Scott has also presented reliable and competent testimony regarding its experience in the telecommunications industry. Based on the foregoing the Commission finds that Scott is fit, willing, and able and has the experience and capability to provide store and forward services in South Carolina as authorized herein.

MISCELLANEOUS MATTERS

During his testimony, Mr. Hutchinson of Scott requested that the Commission take judicial notice of the testimony given in the previous hearing held on March 16, 1994. No party objected to

this request. Therefore, the Commission will take judicial notice of the testimony from the previous hearing.

At the hearing, Scott amended §6.4 (Maximum Service Charges) of its tariff to reflect that the property imposed fee would be applicable for interLATA calls only. The Current Service Charges (§6.8 of Scott's tariff) reveal that Scott does not intend to charge this property imposed fee at this time.

CONDITIONS OF CERTIFICATION¹

1. With this decision to allow Scott to provide "0+" collect and credit card store and forward service on an intraLATA and interLATA basis, the Commission grants a waiver of those portions of COCOT Guidelines 13, 20, and 24, as well as a waiver of portions of OSP Guideline II.C to the extent necessary to conform with the authority granted herein. With the exception of those guidelines specifically waived by the Commission, Scott shall comply with all other Commission guidelines pertaining to COCOT services and OSP services.

2. Based on the nature of the store and forward technology and in line with the Commission's prior decisions authorizing store

1. This proceeding before the Commission addresses only the authority requested by Scott. Any COCOT provider wishing to provide intraLATA and interLATA credit card and collect calls using store and forward service should file an application with the Commission requesting certification to provide any or all of the above-mentioned services. Further, waiver of certain guidelines herein is not to be considered a grant of authority to provide store and forward service as the waiver is merely the authorization to program the payphones so that the payphones may carry the calls once proper certification to provide store and forward service is granted by the Commission. Therefore, before a COCOT provider commences to use store and forward service as approved herein, a certificate of public convenience and necessity is required.

and forward service from confinement facilities, the Commission concludes that the local exchange companies should bill and collect for Scott for providing "0+" collect and credit card intraLATA and interLATA calls at the rate applicable for interexchange carriers.

3. The rates charged for such store and forward collect and credit card calls on an intraLATA basis should be no more than the rates charged by the LEC for intraLATA operator assisted calls at the time such call is completed.

4. The rates charged for such store and forward collect and credit card calls on an interLATA basis should be no more than the rates charged for interLATA operator assisted calls by AT&T Communications at the time such call is completed.

5. The Commission adopts a rate design for Scott which includes only maximum rate levels for each tariff charge, with the restrictions of paragraphs 3 and 4 immediately above duly incorporated. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by this Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket 84-10-C (August 2, 1984).

6. Scott shall not adjust its rates below the approved ~~maximum level without notice to the Commission and to the public.~~ Scott shall file its proposed changes, publish its notices of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not

affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 93-638, issued in Docket 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level reflected in the tariff which would be applicable to the general body of Scott's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 1993).

7. Scott is required to brand all calls so that they are identified as the carrier of such calls to the called party.

8. A "0+" store and forward collect call should only be completed upon affirmative acceptance of the call from the called party.

9. Call detail information submitted by Scott to the LECs for billing must include the COCOT access line number assigned to the line by the local exchange company.

10. The bill provided to the called party should provide the name of the Company and a toll-free number for contacting the Company concerning any billing or service questions.

11. Scott may only use such underlying carriers for the ~~provision of intrastate interLATA telecommunications service as are~~ certified by this Commission to provide such service, and Scott shall notify the Commission in writing as to their underlying carrier or carriers and of any change in their carrier.

12. Scott is subject to any applicable access charges pursuant to Commission Order No. 86-584.

13. Scott is required to file with the Commission surveillance reports on a calendar or fiscal year basis as required by Order No. 88-178, in Docket 87-483-C. The proper form for these reports is indicated on Attachment A, attached hereto and incorporated by reference herein.

14. Based on the tariff which was amended at the hearing, Scott may not charge a property imposed fee at this time. Should Scott decide to charge a property imposed fee in the future, Scott shall request approval from the Commission and provide proper public notice of the request.

15. Scott shall file its revised tariff and accompanying price list within thirty (30) days from receipt of this Order. The revised tariff shall be consistent with the Commission's Rules and Regulations and shall contain tariff amendments agreed upon at the hearing. Further, the tariff shall be filed in a loose-leaf binder.

IT IS THEREFORE ORDERED THAT:

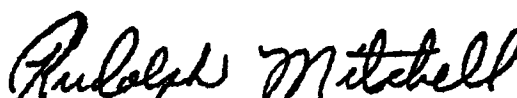
1. Scott is granted a Certificate of Public Convenience and Necessity to offer "0+" collect and credit card store and forward telecommunications service on an intraLATA and interLATA basis from its pay telephones.

~~2. The rates and charges for such services are subject to the~~
restrictions enunciated herein.

3. The local exchange companies are required to provide
billing and collection services to Scott for store and forward services at the applicable rate for interexchange carriers.

4. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


CHAIRMAN

ATTEST:


Executive Director

(SEAL)